

Coburn Amendment 1000 – Allows states to restrict the purchase of junk food in the Supplemental Nutrition Assistance Program (SNAP)

Almost \$80 billion will be spent this year to provide over 46 million Americans with federal financial assistances in the Supplemental Nutrition Assistance Program (SNAP; previously known as “Food Stamps”).¹ With so many families struggling financially, this support can ensure many children who otherwise might go to bed hungry have healthy meals.

While the name of the program purports otherwise, the Supplemental Nutrition Assistance Program (SNAP) is anything but nutritious for America.

Many Americans have criticized the lack of nutrition they see in the program.

Energy drinks, candy bars, sodas, ice cream, potato chips, fancy bakery cakes and cookies are all eligible foods under the program, as defined by statute. Gift baskets can also be purchased with SNAP dollars (assuming the value of non-food items does not exceed 50 percent of the basket’s cost). Few people would qualify these goods as “nutritional assistance.”

In fact, more than \$2 billion of beverages sweetened with sugar are purchased with food stamps every year, according to a study by the Yale Rudd Center for Food Policy & Obesity.² “Fifty-eight percent of all refreshment beverages purchased by SNAP participants were for sugar-sweetened beverages,” including soda and sports drinks.³

While Americans support the value of SNAP in providing crucial assistance to families, they also do not wish to contribute to purchases of questionable nutritional value. One Republican lawmaker in Wisconsin recently

¹ Randy Alison Aussenberg, “Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits,” *Congressional Research Service*, January 9, 2013; R42505.

² “Federal food program pays billions for sugar-sweetened beverages,” Yale University website, September 17, 2012, <http://news.yale.edu/2012/09/17/federal-food-program-pays-billions-sugar-sweetened-beverages>, accessed September 25, 2012.

³ “Federal food program pays billions for sugar-sweetened beverages,” Yale University website, September 17, 2012, <http://news.yale.edu/2012/09/17/federal-food-program-pays-billions-sugar-sweetened-beverages>, accessed September 25, 2012.

summarized his critique of junk food purchases, which the state is now trying to restrict: “These food stamps are supposed to go toward making sure there’s nutritious food in the cupboards for families that are struggling. That was the original intent.”⁴

Some states, for example, have participated in the Restaurant Meals program, which allows SNAP clients to purchase fast food at restaurants such as KFC, Taco Bell, and Pizza Hut (though the specific options vary by state).⁵

USDA has touted the benefit of initiatives to incentivize purchase of healthier foods, such as fruits and vegetables.⁶ Incentives may be unlikely on their own to change SNAP purchases.

Demonstration projects needed to test efficacy and cost of restricting junk food purchases, but the U.S. Department of Agriculture (USDA) has repeatedly denied them.

Several states have considered restricting the items that can be purchased with SNAP benefits.⁷ Of those that have applied to the USDA, all have been denied.

Minnesota applied in 2004 to bar candy bars and soda from the SNAP program. In 2010, New York City (via the state government) sought the authority to restrict the types of beverages eligible in its SNAP program. New York City sought to limit eligible beverages to sweetened drinks with less than 10 calories per cup (with some exceptions, including milk).

⁴ Scott, Dylan. “Wisconsin, South Carolina Hope to Make Food-Stamp Purchases Healthier,” *Governing* blog, May 7, 2013, <http://www.governing.com/blogs/view/gov-should-states-limit-what-foods-are-purchased-with-food-stamps.html>, accessed May 20, 2013.

⁵ “Where Can I Use CalFresh (Food Stamps)?” City and County of San Francisco website, <http://www.sfhsa.org/156.htm>, accessed May 21, 2013.

⁶ Letter from USDA to Ms. Elizabeth R. Berlin, Executive Deputy Commissioner, New York State Office of Temporary and Disability Assistance, August 19, 2011. Available at <http://www.foodpolitics.com/wp-content/uploads/SNAP-Waiver-Request-Decision.pdf>, accessed May 20, 2013.

⁷ Holleman, Joey. “Haley pushed to limit food stamp purchases to healthy items,” *Charlotte Observer*, February 22, 2013. Available at <http://www.charlotteobserver.com/2013/02/22/3872058/haley-pushes-to-limit-food-stamp.html>, accessed May 20, 2013.

According to NYC Mayor Michael Bloomberg, “We think [the NYC] innovative pilot would have done more to protect people from the crippling effects of preventable illnesses...and at little or no cost to taxpayers.”⁸

While both anti-hunger groups and industry have long opposed restrictions to SNAP purchases, representatives from these groups and academic recently agreed “incorporating a planned evaluation into the New York City proposal would have been useful in assessing the feasibility of a food-specific restriction, and its subsequent impact on participants’ dietary behaviors.”⁹

Critics have questioned the value of such an idea considering the potential complexity and administrative cost, but data to support those critiques is scarce.

In fact, USDA touts the success of its Healthy Incentives Pilot, a program that rewards SNAP beneficiaries for purchasing specific types of fruits and vegetables.¹⁰ The pilot uses detailed rules to determine which foods are to be rewarded. For example, eligible items include any “type of dried fruit or dried vegetable (except dried mature legumes) without added sugars, fats, oils, or salt (i.e., sodium).”¹¹ Demonstration projects could model the eligibility procedure for this USDA-championed program.

States should be allowed to experiment with product eligibility.

The hesitation of career USDA bureaucrats to consider innovation in restricting SNAP purchases prompts congressional action.

⁸ Nestle, Marion. “SNAP soda ban? USDA says no!” *Food Politics blog*, August 24, 2011, <http://www.foodpolitics.com/2011/08/snap-soda-ban-usda-says-no/>, accessed May 20, 2013.

⁹ Leung, Cindy, et al.(2013) “A Qualitative Study of Diverse Experts’ Views about Barriers and Strategies to Improve the Diets and Health of Supplemental Nutrition Assistance Program (SNAP) Beneficiaries,” *Journal of the Academy of Nutrition and Dietetics*, 113:70-76.

¹⁰ “2012 Report to Congress,” US Department of Agriculture, Letter to Honorable Debbie Stabenow, December 20, 2012. Available at http://www.fns.usda.gov/snap/hip/docs/2012_HIP_report.pdf, accessed May 21, 2013.

¹¹ “Requirements and Specifications for SNAP HIP Fruit and Vegetable Purchases,” US Department of Agriculture, http://www.fns.usda.gov/snap/hip/docs/purchase_list.pdf, accessed May 21, 2013.

States should have the flexibility to implement solutions that benefit their citizenry. Without granting waivers, the federal government may never know if restrictions on junk food may improve the health benefits of SNAP.

Under this amendment, states would be able to implement demonstration projects to change produce eligibility. The Secretary of Agriculture would no longer be able to push off any state's desire to experiment with product eligibility. The Secretary would have to approve waiver requests that contain a number of details about how the state's program would operate:

- Clear, practical, and consistent in excluding junk food items from SNAP eligibility based on nutritional content
- The cost of implementing the demonstration project
- The number of beneficiaries affected
- Plan to disseminate product eligibility information to retailers
- Plan to monitor and evaluate program results, including the impact on small businesses
- Statement that the demonstration project does **not** intend to reduce the eligibility for, or amount of, benefits available

This amendment would provide states a new and assured pathway under which they can implement demonstration projects.

SNAP retailers already navigate detailed product eligibility information.

With over 300,000 food items available to consumers, eligibility for SNAP already presents a challenge to retailers that they manage well. Under current program procedures, retailers have to program their systems to comply with federal rules for each product. Retailers have to follow SNAP guidelines for the 12,000-plus new products introduced into stores every

year.¹² While most food items with a “Nutrition Facts” label are accepted, some are not and program rules can get quite detailed in these cases.

For example, gift baskets can be purchased with SNAP dollars as long as non-edible items do not account for over 50 percent of the basket’s value. Additionally, none of the non-edible items can be tobacco, pet food, or pet toys.

Most pumpkins can also be purchased with SNAP dollars, but those considered merely ornamental cannot.

Detailed restrictions also apply to how sales tax can be charged to SNAP purchases:

“SNAP licensed retailers may not charge state or local sales tax on SNAP purchases...Eligible items that are subject to sales tax may still be purchased with SNAP benefits. Sales tax, however, cannot be charged when SNAP is used to make the purchase. Sales tax can, however, be charged on the portion of eligible items paid for with manufacturers or other discount coupons. Such tax cannot be paid with SNAP benefits.”¹³

Fortunately, retailers’ point-of-sale systems – the computers that handle check-outs in most grocery stores – are already equipped to process item eligibility and sales tax. This process is similar to flags and differing taxes raised for products containing pseudoephedrine, alcohol, or tobacco. Items are checked against the retailer’s database and treated appropriately.

In a single transaction, the computer can sort through which items can be paid with SNAP benefits and which cannot.

USDA has acknowledged the ease of monitoring restrictions through these point-of-sale systems. In a 2007 report, the agency wrote, “[New

¹² “Implications of Restricting the Use of Food Stamp Benefits – Summary,” US Department of Agriculture, March 1, 2007. Available online at <http://www.fns.usda.gov/ora/menu/Published/snap/FILES/ProgramOperations/FSPFoodRestrictions.pdf>, accessed May 21, 2013.

¹³ “IMPORTANT SNAP INFORMATION,” US Department of Agriculture. Available at http://www.fns.usda.gov/snap/retailers/pdfs/Retailer_Notice_111412.pdf, accessed May 21, 2013.

restrictions on the use of food stamps] may be feasible in stores with modern scanning and inventory control systems.”¹⁴ The agency did raise concern about how restrictions would affect smaller retailers, however.

Demonstration projects will be able to experiment with how to implement restrictions with minimal administrative costs and retailer burden. States may choose to have a centralized list of ineligible products to distribute to retailers to update their POS databases. On the other hand, a state solution may include more retailer involvement.

In any case, this amendment highlights the importance of not overburdening small businesses that may not have modern scanning equipment. States seeking a waiver will be required to report on how they to avoid these burdens on small business.

Learn from the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administration and implementation.

Critics of SNAP restrictions often point to the complexity of implementing such a policy. Yet, for years, the WIC program has operated with intricacies that likely exceed any restrictions proposed by states.

USDA maintains a detailed database on which types of items are eligible for WIC subsidies.¹⁵ For example, just as NYC proposed limiting eligible sugar beverages based on calories, WIC restricts many items based on nutritional and other content:

- Eligible infant cereal includes those with 45 milligrams of iron per 100 grams of dry cereal
- No infant food meats that contain added sugars or sodium are eligible

¹⁴ “Implications of Restricting the Use of Food Stamp Benefits – Summary,” US Department of Agriculture, March 1, 2007. Available online at <http://www.fns.usda.gov/ora/menu/Published/snap/FILES/ProgramOperations/FSPFoodRestrictions.pdf>, accessed May 21, 2013.

¹⁵ “WIC Food Packages – Regulatory Requirements for WIC-eligible foods,” USDA Food and Nutrition Service, <http://www.fns.usda.gov/wic/benefitsandservices/foodpkgregs.htm>, accessed May 30, 2013.

- Juice must be 100% unsweetened pasteurized fruit and/or vegetable juice, with 30 milligrams of vitamin C per 100 milliliters of juice
- Eligible canned mackerel must be N. Atlantic Scoumber scombrus, or Chub Pacific Scomber japonicas
- Eligible whole wheat bread must contain less than or equal to 6.5 grams total fat per “Reference Amount Customarily Consumed” (RACC)

The federal Food and Nutrition Service has begun to maintain a detailed UPC-specific database called the National UPC Database to track all eligible food items. This database is fairly new, but will improve over the next few years. State agencies use these detailed federal guidelines to certify foods as eligible in their WIC programs, and communicate these rules to both WIC participants and retailers.

For instance, New York State provides a detailed “Acceptable Foods Card” to its WIC clients.¹⁶ Increasingly, these rules are computerized and monitored by point-of-sale systems. California maintains lists of item eligibility by UPC that allow checkout computers to determine which foods are paid for with WIC funds.¹⁷

This program provides a model for potential SNAP demonstration projects limiting eligible items. One procedure may be for a state agency to determine which items are included in its SNAP programs based a particular standard. The state can then periodically disseminate a detailed database of included foods to retailers, whose point-of-sale (POS) systems are ready to sort through item eligibility, just as they already do for SNAP transactions of items like hot food (excluded) and vegetables (included).

Cost: No additional appropriations needed.

¹⁶ See http://www.health.ny.gov/prevention/nutrition/wic/docs/acceptable_foods_card.pdf, accessed May 20, 2013.

¹⁷ “California WIC Food List Database,” California Department of Public Health, <http://www.cdph.ca.gov/programs/wicworks/Pages/WIC-CAFoodListsDatabase.aspx>, accessed May 21, 2013.